

S. RES. 370

At the request of Mrs. DOLE, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. Res. 370, a resolution supporting and encouraging greater support for Veterans Day each year.

AMENDMENT NO. 3502

At the request of Mr. WYDEN, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of amendment No. 3502 intended to be proposed to H.R. 2419, a bill to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

AMENDMENT NO. 3543

At the request of Ms. STABENOW, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of amendment No. 3543 intended to be proposed to H.R. 2419, a bill to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself and Mr. CORNYN):

S. 2317. A bill to amend titles 17 and 18, United States Code, and the Trademark Act of 1946 to strengthen and harmonize the protection of intellectual property, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to introduce the Intellectual Property Enforcement Act of 2007. Congress is charged "to promote the progress of science and useful arts," and part of promotion is protection. This legislation will enhance existing intellectual property enforcement laws, provide more resources to combat infringement, and harmonize copyright and trademark laws. I thank Senator CORNYN for joining me in this effort, which is a high priority of mine, and also of the creative communities and industries across the country.

Each year, counterfeiting and copyright infringement cost the U.S. economy billions of dollars. The International Anti-Counterfeiting Coalition estimates that counterfeiting and piracy cost American businesses \$250 billion a year, and hundreds of thousands of jobs as well. Clearly, IP theft is big business, and that can devastate small businesses. No one knows this better than Vermont companies such as Hubbardton Forge, Vermont Teddy Bear Company, and Burton Snowboards. Each of these companies, and many others like them across the Nation invests time, money, and effort in the development of new products. When their products are infringed, it devalues the product and threatens the company.

Senator CORNYN and I have heard from a myriad of interested parties about the importance of protecting intellectual property, and have seen many enforcement proposals. The leg-

islation we introduce today will serve as the core of our legislative effort this year. It will start the process of considering how to ensure that our enforcement laws are up to the task, and that the necessary resources are in place to enforce them. Other Senators have introduced legislation to address these issues, and the Department of Justice and others have suggested legislative language. These are all helpful to the debate, and I expect there will be more to come. Introduction of the Intellectual Property Enforcement Act of 2007 is the beginning of this important effort.

The centerpiece of the bill we introduce today gives the Department of Justice the ability to bring civil actions against copyright infringers. Punishment should fit the crime, and a civil action is often more appropriate to the wrong being done in such cases than is criminal prosecution. This concept has passed the Senate on three separate occasions, as the PIRATE Act. Next, this bill adds resources for agents to combat infringement. It does not matter how strong our laws are, if there are not enough agents, or if our agents do not have the proper expertise to investigate and prosecute crimes, piracy will flourish and harm our economy. Third, this bill allows for "harmless errors" on copyright registration forms. Copyright registration should not be voided by innocently checking the wrong box or misspelling a word on a form. Finally, this bill harmonizes the forfeiture provisions in the copyright and trademark statutes.

By enacting well-balanced enforcement laws, we can protect both the creators and the consumers of intellectual property. It is impossible to put a price tag on creativity, but we must do all we can to protect the fruits of creative labor.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2317

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Intellectual Property Enforcement Act of 2007".

#### SEC. 2. AUTHORIZATION OF CIVIL COPYRIGHT ENFORCEMENT BY ATTORNEY GENERAL.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by inserting after section 506 the following:

##### "§ 506a. Civil penalties for violations of section 506

"(a) IN GENERAL.—In lieu of a criminal action under section 506, the Attorney General may commence a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 506. Upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty under section 504 which shall be in an amount equal to the amount which would be awarded under section 3663(a)(1)(B)

of title 18 and restitution to the copyright owner aggrieved by the conduct.

"(b) OTHER REMEDIES.—

"(1) IN GENERAL.—Imposition of a civil penalty under this section does not preclude any other criminal or civil statutory, injunctive, common law, or administrative remedy, which is available by law to the United States or any other person.

"(2) OFFSET.—Any restitution received by a copyright owner as a result of a civil action brought under this section shall be offset against any award of damages in a subsequent copyright infringement civil action by that copyright owner for the conduct that gave rise to the civil action brought under this section."

(b) DAMAGES AND PROFITS.—Section 504 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in the first sentence—

(i) by inserting ", or the Attorney General in a civil action," after "The copyright owner"; and

(ii) by striking "him or her" and inserting "the copyright owner"; and

(B) in the second sentence by inserting ", or the Attorney General in a civil action," after "the copyright owner"; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting ", or the Attorney General in a civil action," after "the copyright owner"; and

(B) in paragraph (2), by inserting ", or the Attorney General in a civil action," after "the copyright owner".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by inserting after the item relating to section 506 the following:

"506a. Civil penalties for violation of section 506."

#### SEC. 3. IMPROVED INVESTIGATIVE AND FORENSIC RESOURCES FOR ENFORCEMENT OF LAWS RELATED TO INTELLECTUAL PROPERTY CRIMES.

(a) IN GENERAL.—The Attorney General, in consultation with the Director of the Federal Bureau of Investigation, shall, with respect to crimes related to the theft of intellectual property—

(1) create an operational unit of the Federal Bureau of Investigation—

(A) to work with the Computer Crime and Intellectual Property section of the Department of Justice on the investigation and coordination of intellectual property crimes that are complex, committed in more than 1 judicial district, or international;

(B) that consists of at least 10 agents of the Bureau; and

(C) that is located at the headquarters of the Bureau;

(2) ensure that any unit in the Department of Justice responsible for investigating computer hacking or intellectual property crimes is assigned at least 2 agents of the Federal Bureau of Investigation (in addition to any agent assigned to such unit as of the date of the enactment of this Act) to support such unit for the purpose of investigating or prosecuting intellectual property crimes; and

(3) implement a comprehensive program—

(A) the purpose of which is to train agents of the Federal Bureau of Investigation in the investigation and prosecution of such crimes and the enforcement of laws related to intellectual property crimes;

(B) that includes relevant forensic training related to investigating and prosecuting intellectual property crimes; and

(C) that requires such agents who investigate or prosecute intellectual property crimes to attend the program annually.

(b) INTELLECTUAL PROPERTY LAW ENFORCEMENT COORDINATORS.—Not later than 120

days after the date of the enactment of this Act, the Attorney General shall assign 1 Federal prosecutor to the appropriate office of the Department of Justice located in Hong Kong and 1 Federal prosecutor to such an office located in Budapest, Hungary, to assist in the coordination of the enforcement of intellectual property laws between the United States and foreign nations.

(c) ORGANIZED CRIME TASK FORCE.—Not later than 120 days after the date of the enactment of this Act, the Attorney General, through the United States Attorneys' Offices, the Computer Crime and Intellectual Property section, and the Organized Crime and Racketeering section of the Department of Justice, and in consultation with the Federal Bureau of Investigation and other Federal law enforcement agencies, shall create a Task Force to develop and implement a comprehensive, long-range plan to investigate and prosecute international organized crime syndicates engaging in or supporting crimes relating to the theft of intellectual property.

(d) AUTHORIZATION.—There are authorized to be appropriated to carry out this section \$12,000,000 for each of fiscal years 2008 through 2011.

#### SEC. 4. ADDITIONAL FUNDING FOR RESOURCES TO INVESTIGATE AND PROSECUTE CRIMINAL ACTIVITY INVOLVING COMPUTERS.

(a) ADDITIONAL FUNDING FOR RESOURCES.—

(1) AUTHORIZATION.—In addition to amounts otherwise authorized for resources to investigate and prosecute criminal activity involving computers, there are authorized to be appropriated for each of the fiscal years 2008 through 2011—

(A) \$10,000,000 to the Director of the Federal Bureau of Investigation; and

(B) \$10,000,000 to the Attorney General for the Criminal Division of the Department of Justice.

(2) AVAILABILITY.—Any amounts appropriated under paragraph (1) shall remain available until expended.

(b) USE OF ADDITIONAL FUNDING.—Funds made available under subsection (a) shall be used by the Director of the Federal Bureau of Investigation and the Attorney General, for the Federal Bureau of Investigation and the Criminal Division of the Department of Justice, respectively, to—

(1) hire and train law enforcement officers to—

(A) investigate crimes committed through the use of computers and other information technology, including through the use of the Internet; and

(B) assist in the prosecution of such crimes; and

(2) procure advanced tools of forensic science to investigate, prosecute, and study such crimes.

#### SEC. 5. REGISTRATION IN CIVIL INFRINGEMENT ACTIONS.

(a) LIMITATION TO CIVIL ACTIONS; HARMLESS ERROR.—Section 411 of title 17, United States Code, is amended—

(1) in the section heading, by inserting “civil” before “infringement”;

(2) in subsection (a)—

(A) in the first sentence, by striking “no action” and inserting “no civil action”; and

(B) in the second sentence, by striking “an action” and inserting “a civil action”;

(3) in subsection (b)—

(A) by redesignating that subsection as subsection (c); and

(B) by striking “506 and sections 509 and” and inserting “505 and section”;

(4) by inserting after subsection (a) the following:

“(b)(1) A certificate of registration satisfies the requirements of this section and section 412, regardless of whether the certificate contains any inaccurate information, unless—

“(A) the inaccurate information was included on the application for copyright registration with knowledge that it was inaccurate; and

“(B) the inaccurate information, if known, would have caused the Register of Copyrights to refuse registration.

“(2) In any case in which inaccurate information described under paragraph (1) is alleged, the court shall request the Register of Copyrights to advise the court whether the inaccurate information, if known, would have caused the Register of Copyrights to refuse registration.”;

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 412 of title 17, United States Code, is amended by striking “411(b)” and inserting “411(c)”.

(2) The item relating to section 411 in the table of sections for chapter 4 of title 17, United States Code, is amended to read as follows:

“411. Registration and civil infringement actions.”.

#### SEC. 6. CIVIL REMEDIES FOR INFRINGEMENT.

(a) IN GENERAL.—Section 503(a) of title 17, United States Code, is amended—

(1) by striking “and of all plates” and inserting “, of all plates”;

(2) by striking the period and inserting “, and of records documenting the manufacture, sale, or receipt of things involved in such violation. The court shall enter an appropriate protective order with respect to discovery of any records that have been seized. The protective order shall provide for appropriate procedures to assure that confidential information contained in such records is not improperly disclosed to any party.”.

(b) PROTECTIVE ORDERS FOR SEIZED RECORDS.—Section 34(d)(1)(A) of the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (commonly referred to as the Trademark Act of 1946) (15 U.S.C. 1116(d)(1)(A)) is amended by adding “The court shall enter an appropriate protective order with respect to discovery of any records that have been seized. The protective order shall provide for appropriate procedures to assure that confidential information contained in such records is not improperly disclosed to any party.” after the first sentence.

#### SEC. 7. CRIMINAL INFRINGEMENT.

(a) FORFEITURE AND DESTRUCTION; RESTITUTION.—Section 506(b) of title 17, United States Code, is amended to read as follows:

“(b) FORFEITURE, DESTRUCTION, AND RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323 of title 18, to the extent provided in that section, in addition to any other similar remedies provided by law.”.

(b) SEIZURES AND FORFEITURES.—

(1) REPEAL.—Section 509 of title 17, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by striking the item relating to section 509.

#### SEC. 8. IMPORTATION AND EXPORTATION.

(a) IMPORTATION AND EXPORTATION OF INFRINGING ITEMS.—Section 602(a) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C);

(2) in the first sentence, by striking “Importation” and inserting “(1) Importation”;

(3) by striking “106, actionable” and inserting “106 and is actionable”;

(4) by striking “This subsection does not apply to—” and inserting the following:

“(2) Importation into the United States or exportation from the United States, without the authority of the owner of copyright under this title, of copies or phonorecords, the making of which either constituted an infringement of copyright or would have constituted an infringement of copyright if this title had been applicable, is an infringement of the exclusive right to distribute copies or phonorecords under section 106 and is actionable under sections 501 and 506.

“(3) This subsection does not apply to—”;

(5) in subparagraph (A), as redesignated, by inserting “or exportation” after “importation”;

(6) in subparagraph (B), as redesignated—

(A) by striking “, for the private use of the importer” and inserting “or exportation, for the private use of the importer or exporter”;

and

(B) by inserting “or departing from the United States” after “outside the United States”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The section heading for section 602 of title 17, United States Code, is amended by inserting “or exportation” after “importation”.

(2) The table of sections for chapter 6 of title 17, United States Code, is amended by inserting “or exportation” after “importation”.

(3) The heading for chapter 6 of title 17, United States Code, is amended to read as follows:

“CHAPTER 6—MANUFACTURING REQUIREMENTS, IMPORTATION, AND EXPORTATION”.

(4) The item relating to chapter 6 in the table of chapters for title 17, United States Code, is amended to read as follows:

“6. Manufacturing Requirements, Importation, and Exportation ..... 601”.

#### SEC. 9. DEFINING TERMS RELATING TO CIRCUMVENTION OF COPYRIGHT PROTECTION SYSTEMS.

Section 1201 of title 17, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking “import,”;

and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking “and” after the semicolon;

(ii) in subparagraph (B), by striking the period and inserting “; and”;

(iii) by redesignating subparagraph (B) as subparagraph (C), and inserting after subparagraph (A) the following:

“(B) the term ‘financial gain’ includes receipt, or expectation of receipt, of anything of value, including the receipt of other copyrighted works;”;

(iv) by adding at the end the following:

“(C) the term ‘traffic in’ means to transport, transfer, or otherwise dispose of, to another, for purposes of commercial advantage or private financial gain, or to make, import, export, obtain control of, or possess, with intent to so transport, transfer, or otherwise dispose of.”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “import,”;

and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “and” after the semicolon;

(ii) in subparagraph (B), by striking the period and inserting “; and”;

(iii) by redesignating subparagraph (B) as subparagraph (C), and inserting after subparagraph (A) the following:

“(B) the term ‘financial gain’ includes receipt, or expectation of receipt, of anything of value, including the receipt of other copyrighted works;”;

(iv) by adding at the end the following:

“(D) the term ‘traffic in’ means to transport, transfer, or otherwise dispose of, to another, or to make, import, export, obtain control of, or possess, with intent to so transport, transfer, or otherwise dispose of.”.

**SEC. 10. FORFEITURE UNDER ECONOMIC ESPIONAGE ACT.**

Section 1834 of title 18, United States Code, is amended to read as follows:

**“§ 1834. Criminal forfeiture**

“Forfeiture, destruction, and restitution relating to this chapter shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.”.

**SEC. 11. TRAFFICKING IN COUNTERFEIT LABELS, ILLICIT LABELS, OR COUNTERFEIT DOCUMENTATION OR PACKAGING FOR WORKS THAT CAN BE COPY-RIGHTED.**

Section 2318 of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended—

(A) by redesignating subparagraphs (A) through (G) as clauses (i) through (vii), respectively;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by striking “Whoever” and inserting “(1) Whoever”.

(2) Section 2318(d) is amended to read as follows:

“(d) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.”.

(3) Section 2318 is further amended by striking subsection (e) and redesignating subsection (f) as subsection (e).

**SEC. 12. UNAUTHORIZED RECORDING OF MOTION PICTURES.**

Section 2319B(b) of title 18, United States Code, is amended to read as follows:

“(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.”.

**SEC. 13. TRAFFICKING IN COUNTERFEIT GOODS OR SERVICES.**

Section 2320(b) of title 18, United States Code, is amended to read as follows:

“(b) FORFEITURE AND DESTRUCTION OF PROPERTY; RESTITUTION.—Forfeiture, destruction, and restitution relating to this section shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law.”.

**SEC. 14. FORFEITURE, DESTRUCTION, AND RESTITUTION.**

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding at the end the following:

**“§ 2323. Forfeiture, destruction, and restitution**

“(a) CIVIL FORFEITURE.—

“(1) PROPERTY SUBJECT TO FORFEITURE.—The following property is subject to forfeiture to the United States:

“(A) Any article the making or trafficking of which is prohibited under section 506 or 1204 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title.

“(B) Any property used, or intended to be used, in any manner or part to commit or facilitate the commission of an offense referred to in subparagraph (A).

“(C) Any property constituting or derived from any proceeds obtained directly or indi-

rectly as a result of the commission of an offense referred to in subparagraph (A).

“(2) PROCEDURES.—The provisions of chapter 46 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. At the conclusion of the forfeiture proceedings, unless otherwise requested by an agency of the United States, the court shall order that any property forfeited under paragraph (1) be destroyed, or otherwise disposed of according to law.

“(b) CRIMINAL FORFEITURE.—

“(1) PROPERTY SUBJECT TO FORFEITURE.—The court, in imposing sentence on a person convicted of an offense under section 506 or 1204 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, shall order, in addition to any other sentence imposed, that the person forfeit to the United States any property subject to forfeiture under subsection (a) for that offense.

“(2) PROCEDURES.—

“(A) IN GENERAL.—The forfeiture of property under paragraph (1), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

“(B) DESTRUCTION.—At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States—

“(i) shall order that any forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law; and

“(ii) shall order that any infringing items or other property described in subsection (a)(1)(A) and forfeited under paragraph (1) of this subsection be destroyed or otherwise disposed of according to law.

“(c) RESTITUTION.—When a person is convicted of an offense under section 506 or 1204 of title 17 or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, the court, pursuant to sections 3556, 3663A, and 3664 of this title, shall order the person to pay restitution to any victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii) of this title.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113 of title 18, United States Code, is amended by adding at the end the following:

“2323. Forfeiture, destruction, and restitution.”.

**SEC. 15. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) AMENDMENTS TO TITLE 17, UNITED STATES CODE.—

(1) Section 109 (b)(4) of title 17, United States Code, is amended by striking “505, and 509” and inserting “and 505”.

(2) Section 111 of title 17, United States Code, is amended—

(A) in subsection (b), by striking “and 509”;

(B) in subsection (c)—

(i) in paragraph (2), by striking “and 509”;

(ii) in paragraph (3), by striking “sections 509 and 510” and inserting “section 510”;

and (iii) in paragraph (4), by striking “and section 509”;

(C) in subsection (e)—

(i) in paragraph (1), by striking “sections 509 and 510” and inserting “section 510”;

and (ii) in paragraph (2), by striking “and 509”.

(3) Section 115(c) of title 17, United States Code, is amended—

(A) in paragraph (3)(G)(i), by striking “and 509”;

and (B) in paragraph (6), by striking “and 509”.

(4) Section 119(a) of title 17, United States Code, is amended—

(A) in paragraph (6), by striking “sections 509 and 510” and inserting “section 510”;

(B) in paragraph (7)(A), by striking “and 509”;

(C) in paragraph (8), by striking “and 509”;

and (D) in paragraph (13), by striking “and 509”.

(5) Section 122 of title 17, United States Code, is amended—

(A) in subsection (d), by striking “and 509”;

(B) in subsection (e), by striking “sections 509 and 510” and inserting “section 510”;

and (C) in subsection (f)(1), by striking “and 509”.

(6) Section 411(b) of title 17, United States Code, is amended by striking “sections 509 and 510” and inserting “section 510”.

(b) OTHER AMENDMENTS.—Section 596(c)(2)(c) of the Tariff Act of 1950 (19 U.S.C. 1595a(c)(2)(c)) is amended by striking “or 509”.

By Mr. DURBIN (for himself and Mr. COCHRAN):

S. 2320. A bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes; to the Committee on Finance.

Mr. DURBIN. Mr. President, Organ transplantation is one of the most remarkable success stories in the history of medicine. No longer is it considered experimental. Today, transplants are accepted as the best treatment for certain diseases, including End Stage Renal Disease. Approximately 28,000 organ transplants were performed last year in the U.S. The vast majority of transplants are provided to patients in need of a kidney.

Our Medicare system provides health care to millions of aged and disabled Americans, as well as those living with ESRD, each year. Thousands of Americans receive a Medicare-covered kidney transplant each year through the Medicare ESRD Program, which also covers dialysis, immunosuppressive drugs, and other medically important services.

Unfortunately, there are long waiting lists for people who need an organ. Today there are over 98,000 individuals waiting for a transplant. For those lucky enough to receive one, the next challenge is to obtain coverage for immunosuppressive drugs—medications that organ transplant recipients must take every day for the life of their transplant to reduce the risk of organ rejection.

In 2000, Congress wisely eliminated the 36-month time limitation for Medicare-aged and Medicare-disabled beneficiaries who had Medicare status at the time of transplant. Today, for an older or disabled person on Medicare, coverage for immunosuppressive drugs is covered for the life of the transplant.

However, we still have an unfair and unrealistic gap in coverage for people with ESRD who are neither disabled nor elderly. For those transplant recipients, coverage for immunosuppressive drugs ends 36 months after transplantation. For example, Medicare would pay for a 26-year-old woman

living with ESRD to have lifelong dialysis at \$50,000 per year. Medicare would cover the cost of a transplant for her at \$100,000 per transplant operation. But, the immunosuppressive drugs she would need to ensure the organ is not rejected by her body are only covered by Medicare for 36 months, even though the drugs cost the Government only \$15,000 per year.

This is economically inefficient and morally wrong. Without regular access to immunosuppressive drugs to prevent rejection, many patients find themselves back in a risky and frightening place—in need of a new kidney. This senseless cycle of care costs taxpayers a lot of money and puts thousands of lives on the line.

I am pleased to introduce today, along with my colleague from Mississippi, Senator THAD COCHRAN, the Comprehensive Immunosuppressive Drug Coverage for Transplant Patients Act. This legislation would alleviate the disparity between coverage for immuno-suppressive drugs among Medicare beneficiaries. It is time to provide lifetime coverage for immunosuppressive drugs through Medicare. We will reduce the need for dialysis and kidney re-transplants and provide reliable, sustained access to critically important, life-saving medications for thousands of Americans. In the long run, we will save money and lives.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 2320

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act of 2007”.

#### SEC. 2. PROVISION OF APPROPRIATE COVERAGE OF IMMUNOSUPPRESSIVE DRUGS UNDER THE MEDICARE PROGRAM FOR KIDNEY TRANSPLANT RECIPIENTS.

(a) CONTINUED ENTITLEMENT TO IMMUNOSUPPRESSIVE DRUGS.—

(1) KIDNEY TRANSPLANT RECIPIENTS.—Section 226A(b)(2) of the Social Security Act (42 U.S.C. 426-1(b)(2)) is amended by inserting “(except for coverage of immunosuppressive drugs under section 1861(s)(2)(J))” after “shall end”.

(2) APPLICATION.—Section 1836 of the Social Security Act (42 U.S.C. 1395o) is amended—

(A) by striking “Every individual who” and inserting “(a) IN GENERAL.—Every individual who”; and

(B) by adding at the end the following new subsection:

“(b) SPECIAL RULES APPLICABLE TO INDIVIDUALS ONLY ELIGIBLE FOR COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—

“(1) IN GENERAL.—In the case of an individual whose eligibility for benefits under this title has ended except for the coverage of immunosuppressive drugs by reason of section 226A(b)(2), the following rules shall apply:

“(A) The individual shall be deemed to be enrolled under this part for purposes of receiving coverage of such drugs.

“(B) The individual shall be responsible for the full amount of the premium under section 1839 in order to receive such coverage.

“(C) The provision of such drugs shall be subject to the application of—

“(i) the deductible under section 1833(b); and

“(ii) the coinsurance amount applicable for such drugs (as determined under this part).

“(D) If the individual is an inpatient of a hospital or other entity, the individual is entitled to receive coverage of such drugs under this part.

“(2) ESTABLISHMENT OF PROCEDURES IN ORDER TO IMPLEMENT COVERAGE.—The Secretary shall establish procedures for—

“(A) identifying beneficiaries that are entitled to coverage of immunosuppressive drugs by reason of section 226A(b)(2); and

“(B) distinguishing such beneficiaries from beneficiaries that are enrolled under this part for the complete package of benefits under this part.”.

(3) TECHNICAL AMENDMENT.—Subsection (c) of section 226A of the Social Security Act (42 U.S.C. 426-1), as added by section 201(a)(3)(D)(ii) of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296; 108 Stat. 1497), is redesignated as subsection (d).

(b) EXTENSION OF SECONDARY PAYER REQUIREMENTS FOR ESRD BENEFICIARIES.—Section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) is amended by adding at the end the following new sentence: “With regard to immunosuppressive drugs furnished on or after the date of enactment of the Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act of 2007, this subparagraph shall be applied without regard to any time limitation.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs furnished on or after the date of enactment of this Act.

#### SEC. 3. PLANS REQUIRED TO MAINTAIN COVERAGE OF IMMUNOSUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT RECIPIENTS.

(a) APPLICATION TO CERTAIN HEALTH INSURANCE COVERAGE.—

(1) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

##### “SEC. 2707. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT RECIPIENTS.

“A group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall provide coverage of immunosuppressive drugs in connection with a kidney transplant that is at least as comprehensive as the coverage provided by such plan or issuer on the day before the date of enactment of the Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act of 2007, and such requirement shall be deemed to be incorporated into this section.”.

(2) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of the Public Health Service Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting “(other than section 2707)” after “requirements of such subparts”.

(b) APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

##### “SEC. 714. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT RECIPIENTS.

“A group health plan (and a health insurance issuer offering health insurance coverage in connection with a group health plan) shall provide coverage of immunosuppressive drugs in connection with a kidney transplant that is at least as comprehensive as the coverage provided by such plan or issuer on the day before the date of enactment of the Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act of 2007, and such requirement shall be deemed to be incorporated into this section.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191(a)) is amended by striking “section 711” and inserting “sections 711 and 714”.

(B) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following new item:

“Sec. 714. Coverage of immunosuppressive drugs.”.

(c) APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

“Sec. 9813. Coverage of immunosuppressive drugs for kidney transplant recipients.”;

and

(2) by inserting after section 9812 the following:

##### “SEC. 9813. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT RECIPIENTS.

“A group health plan shall provide coverage of immunosuppressive drugs in connection with a kidney transplant that is at least as comprehensive as the coverage provided by such plan on the day before the date of enactment of the Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act of 2007, and such requirement shall be deemed to be incorporated into this section.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after January 1, 2008.

By Mr. CARDIN:

S. 2322. A bill to amend the International Center Act to authorize the lease or sublease of certain property described in such Act to an entity other than a foreign government or international organization if certain conditions are met; to the Committee on Foreign Relations.

Mr. CARDIN. Mr. President, today I am introducing a bill to amend the International Center Act to make it clear that Intelsat can continue to lease the land on which its headquarters building is located.

Congress created Intelsat when it passed the Communications Satellite Act in the 1960s, intending it to be an international organization charged with establishing the world's first global satellite system. In 2000, Congress passed the ORBIT Act, which essentially mandated that Intelsat become a private company. The purpose of the ORBIT Act was to promote a fully competitive global market for satellite

communication services for the benefit of consumers. Congress inadvertently overlooked some important changes that were required to complete this transformation and, as a result, had to make technical changes to correct these oversights.

One technical correction still needs to be made, however: the International Center Act, ICA, must be amended to ensure that Intelsat's lease of the land on which its headquarters is located comports with the law. The U.S. Government owns this land. The State Department and Intelsat entered into a long-term lease for the land on which Intelsat built its headquarters many years ago. Intelsat constructed and fully owns the building. The lease was originally entered into pursuant to the ICA and has been amended several times over the years, most recently in 2006. The ICA, however, limits leases of this property to foreign governments and international organizations. At the time Intelsat leased the property and built its headquarters building, it was an international organization.

When Congress mandated in the ORBIT Act that Intelsat privatize, it created a problem regarding Intelsat's land lease. Once Intelsat was no longer an international organization, it technically no longer satisfied the requirements of the ICA. In other words, Congress' action requiring Intelsat to privatize has left the company's right to continue to lease the land in question. But it was never the intent of the ORBIT Act to create this uncertainty with respect to the legality of Intelsat's land lease.

The bill I am introducing amends the ICA to eliminate this uncertainty that the ORBIT Act created regarding the lease. It is necessary to ensure that the now privatized Intelsat can continue to lease the land. My bill would in no way alter the rights or obligations of the parties or any of the lease terms or conditions. It in no way expands any of Intelsat's rights under the existing lease. Nor does it change in any way the rights or powers that the State Department currently has under the lease. The Secretary of State will continue to have the same right to prohibit any use, development, occupancy, lease, or sublease as is currently authorized under the existing lease. My bill makes no substantive change in the relationship between the State Department and Intelsat. It merely eliminates the inconsistency between the lease and the ICA that was caused by Intelsat's privatization—which Congress required when it passed the ORBIT Act.

The State Department has approved this legislation to amend the ICA. I hope my colleagues will support the bill, too, and act on it expeditiously.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2322

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AMENDMENT TO THE INTERNATIONAL CENTER ACT.**

The first section of the International Center Act (Public Law 90-553; 82 Stat. 958) is amended by adding at the end the following new sentence: "Notwithstanding the foregoing limitations, the property identified by the District of Columbia as tax lots 803, 804, 805, and 806 within the area described in this section may be leased or subleased to an entity other than a foreign government or international organization, so long as the Secretary maintains the right to approve the occupant and the intended use of the property."

**AMENDMENTS SUBMITTED AND PROPOSED**

SA 3544. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table.

SA 3545. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3546. Mr. ROBERTS (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3547. Mr. ROBERTS (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3548. Mr. ROBERTS (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3549. Mr. ROBERTS (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3550. Mr. ALEXANDER submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3551. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3552. Mr. ALEXANDER (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3553. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3554. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3555. Mr. KOHL (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3556. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3557. Mrs. HUTCHISON (for herself and Mr. HARKIN) proposed an amendment to the bill H.R. 3043, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

SA 3558. Mr. INOUE (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table.

SA 3559. Mr. INOUE (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3560. Mr. INOUE (for himself, Mr. AKAKA, Mr. STEVENS, and Ms. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3561. Ms. MURKOWSKI (for herself, Mr. STEVENS, Ms. CANTWELL, Mr. SMITH, and Mrs. MURRAY) submitted an amendment intended to be proposed by her to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3562. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3563. Mr. BINGAMAN (for himself, Mr. BROWNBACK, Mr. ALLARD, Mr. DOMENICI, Mr. SALAZAR, and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3564. Mr. BINGAMAN (for himself, Mr. ALLARD, Mr. DOMENICI, Mr. SALAZAR, and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, supra; which was ordered to lie on the table.

SA 3565. Mr. DURBIN (for Mr. LIEBERMAN (for himself and Ms. COLLINS)) proposed an amendment to the bill S. 680, to ensure proper oversight and accountability in Federal contracting, and for other purposes.

**TEXT OF AMENDMENTS**

**SA 3544.** Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3500 proposed by Mr. HARKIN (for himself, Mr. CHAMBLISS, Mr. BAUCUS, and Mr. GRASSLEY) to the bill H.R. 2419, to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 1492, after line 23, add the following: